

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DAVID A. STRANGE,)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-08-441-M
)	
MIKE ADDISON,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner, a prisoner appearing pro se, initiated this action on April 25, 2008, by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254. This matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). In accordance with that referral, the undersigned entered an Order on April 30, 2008, noting that the Court had received the petition for writ of habeas corpus, but that the Petitioner had neither paid the \$5.00 filing fee required to initiate the action nor submitted an application to proceed in forma pauperis. Accordingly, the Court directed him to either pay the required filing fee or submit a completed in forma pauperis application, on or before May 20, 2007. The Petitioner was also informed that failure to comply with the Order by the date set forth above could result in dismissal of the action without prejudice to refiling and without further notice. See LCvR 3.3; 3.5.

As of this date, the Petitioner has neither complied with the Order, sought an extension of time in which to do so, nor has he attempted to show cause for his failure.

Therefore, the undersigned recommends that the petition for a writ of habeas corpus be dismissed without prejudice to refiling.

RECOMMENDATION

Accordingly, the undersigned recommends that the petition for a writ of habeas corpus be dismissed without prejudice to refiling due to Petitioner's failure to either pay the required filing fee or to submit a completed *in forma pauperis* application. The Petitioner is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by June 18, 2008, in accordance with 28 U.S.C. §636 and Local Civil Rule 72.1. The Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal questions. Moore v. United States, 950 F.2d 656 (10th Cir. 1991). This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 29th day of May, 2008.



DOYLE W. ARGO
UNITED STATES MAGISTRATE JUDGE